

July 31, 2003

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**OPTION FOR AMENDED AND RESTATED LEASE TO FACILITATE
REDEVELOPMENT - PARCEL 140V
(ADMIRALTY APARTMENTS) - MARINA DEL REY
(4th DISTRICT)
(4 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the proposed Option to Amend Lease Agreement ("Option"), attached as Exhibit A, is categorically exempt under the California Environmental Quality Act pursuant to class 1 (r) of the County's Environmental Document Reporting Procedures and Guidelines.
2. Approve and authorize the Chair of the Board to sign the attached Option granting to the current lessee, upon fulfillment of stated conditions, the right to extend the term of its existing ground lease on Parcel 140V by 39 years.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Your Board previously authorized the release of the Invitation to Apply for Lease Extensions on Certain Marina del Rey Parcels ("Extension Invitation"), which was intended to seek competitive proposals for the use of available entitlements that would both enable development and allow for the concurrent evaluation of multiple proposals for such development in order to determine the proposal(s) which best maximize the County's benefit from those available entitlements. The proposed Option for Parcel 140V is the result of negotiations initiated as a result of an evaluation committee's recommendation,

Implementation of Strategic Plan Goals

In furtherance of County Goal #4, "Fiscal Responsibility," the recommended action will allow the Department to implement that portion of its Strategic Plan that enhances strategic partnerships with existing and prospective lessees through proactive implementation of the Marina del Rey Asset Management Strategy toward both revenue maximization and property redevelopment.

The following chart details the proposed deal terms of the Restated Lease providing for the 39-year lease extension as they relate to your Board's existing lease extension policy:

BOARD POLICY ITEM	PROPOSED DEAL TERMS – PARCEL 140V
REDEVELOPMENT Redevelopment of existing improvements	<ul style="list-style-type: none">• Demolition of two existing apartment buildings containing 64 units and construction of a new 4-story 179-unit apartment building, including 17 low-income units. Construction to be completed within 2 years of Lessee's exercise of Option, exclusive of delays caused by force majeure, which in no event shall extend the completion date for more than 2 years.• Total development cost to be not less than \$30,427,500.• A Capital Improvement Fund to be funded annually by Lessee in the amount of 1.5% of Lessee's total gross revenues derived from the leasehold (1.0% for the first 5 years following completion of construction) will be maintained during the term of the lease. The Capital Improvement Fund must be fully expended for Permitted Capital Expenditures no later than 7 years prior to the expiration date of the lease. All Permitted Capital Expenditures are subject to prior approval by the Director.• A Renovation Fund to be funded annually by Lessee, starting in the sixth year following completion of construction in the amount of 1.0% of Lessee's total gross revenues derived from the leasehold, will be maintained during the remaining term of the lease. The Renovation Fund must be fully expended to physically reposition the project to then current market requirements in 2016, 2031, and 2046. All Renovation Fund Expenditures are subject to prior approval by the Director.

The Honorable Board of Supervisors
July 31, 2003
Page 2

accepted by the Director of the Department of Beaches and Harbors ("Director") and approved by your Board, to proceed with negotiations with the lessee, Gold Coast Apartments, LLC ("Lessee"), for such option. The attached Option is designed to allow the Lessee to exercise its option and receive the benefits of the Amended and Restated Lease (Restated Lease) attached as Exhibit B, upon demonstration that it has satisfied all of the conditions for exercise contained in the Option and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from governmental authorities for the construction of the development project. If the Lessee does not exercise the Option, the new percentage rents and a number of improved lease terms will nonetheless be incorporated by amendment into the current lease.

The Restated Lease for Parcel 140V provides for a 39-year lease extension; payment of a \$900,000 lease extension fee; demolition of the two existing apartment buildings totaling 64 units; construction of a new 4-story 179-unit apartment building; establishment of a reserve for capital improvements equal to 1.0% of the gross revenues derived from the leasehold for the first five years following completion of construction and 1.5% of the gross revenues derived from the leasehold thereafter; establishment of a Renovation Fund equal to 1% of the gross revenues derived from the leasehold that must be fully expended to physically reposition the project to then current market requirements in 2016, 2031 and 2046; establishment of new minimum and percentage rents; County participation in leasehold sale and/or refinance; revised arbitration procedures; County right to recapture the leasehold if the Lessee pursues its sale; establishment of a sinking fund to remove leasehold improvements at lease termination; liquidated damages of \$100 per day (adjusted for inflation) for each cited maintenance deficiency that remains uncured after the specified cure period; and other miscellaneous improvements to the lease (e.g., payment of late fees and interest on overdue County payments and enhanced audit and record-keeping standards). Once the Lessee has obtained all necessary project entitlements and has fulfilled the other requirements entitling it to exercise the Option, we will return to your Board for authority to execute the Restated Lease in substantially the form attached.

The Department has obtained an appraisal that confirms the return to the County from the lease extension for Parcel 140V is equivalent to, or greater than, fair market value.

EXTENSION TERM	<ul style="list-style-type: none"> Option to extend lease for an additional 39 years, from October 1, 2022 to September 30, 2061. Lessee can exercise Option only after it has obtained all required planning, zoning and entitlement approvals, including approvals by Design Control Board, Regional Planning, Board of Supervisors (if applicable) and Coastal Commission (if applicable), and has provided to County satisfactory evidence of project financing. If Lessee is unable to obtain all of the necessary entitlement and financing approvals within an 18-month period, the Director may grant, in his discretion, one 6-month extension if Lessee can demonstrate it has diligently pursued those approvals. If Lessee obtains its approvals within the 18-month (or 24-month) period, but such approvals are subject to litigation or appeal brought by a third party, then the Option exercise date will be tolled pending the resolution of such litigation or appeal; provided, however, that the Option exercise date shall in no event be later than 4 years after the date of the grant of Option.
EXTENSION FEE Fee equal to or commensurate with value of the extension	<ul style="list-style-type: none"> The amount of the extension fee shall be \$900,000, payable as set forth below. Lessee shall pay a non-refundable option fee of \$100,000 concurrent with the execution of the Option. Such payment shall be credited against extension fee if the Option is exercised, but shall not be refundable in the event the Option is not exercised. The remaining \$800,000 of the extension fee shall be payable in 10 equal annual principal installments of \$80,000 each, plus interest (at the prime rate) accrued on the unpaid balance of the extension fee.
MARKET RATE RENTS Ensure fair market rents	<ul style="list-style-type: none"> Minimum annual rent during the demolition and construction period to be reset upon exercise of Option to an amount equal to 75% of the previous 3 years' average annual total rent paid to County. Minimum annual rent for 3 years following completion of construction equal to 75% of average annual total rent to be paid to County based on Lessee's projected gross receipts for the first 3 years of operation, to be provided by Lessee no later than 3 months prior to completion and reasonably approved by County. If County and Lessee cannot agree on minimum annual rent based upon Lessee's projected gross receipts, then Lessee will pay County the "Minimum Annual Floor Rental Amount."

The Honorable Board of Supervisors

June 26, 2003

Page 5

	<ul style="list-style-type: none"> • The Minimum Annual Floor Rental Amount shall be the Base Rent Amount (as described below) increased (but not decreased) by the percentage change in the Consumer Price Index (All Urban Consumers for Los Angeles-Riverside-Orange Counties) from January 2002 through the month of the completion of construction. The Base Rent Amount shall mean 75% of the total rents payable by Lessee for the calendar year 2001 multiplied by a fraction the numerator of which is the number of proposed apartment units (179), minus the units devoted to affordable housing (17), and the denominator of which is the existing apartment units (64). • Commencing with the fourth year after completion of construction, the minimum rent to be reset, and every 3 years thereafter, equal to 75% of the previous 3 years' average annual total rent paid to County and subject to renegotiation every 10 years from effective date of Restated Lease. • Percentage rents payable at the following rates, subject to renegotiation every 10 years from effective date of Restated Lease: <ul style="list-style-type: none"> 10.5% of Apartments 5.0% of Vending (Owned) 25.0% of Vending (Commissions) 5.0% of Miscellaneous
PARTICIPATION IN SALE AND REFINANCE Secure County participation in sale and refinance of leasehold	<ul style="list-style-type: none"> • Sale Participation: Greater of 5% of Gross Proceeds or 20% of Net Proceeds. • Refinance Participation: 20% of Net Proceeds not reinvested in leasehold improvements.
COUNTY ADMINISTRATIVE COSTS Ensure payment for County costs for lease extension and administration	<ul style="list-style-type: none"> • Reimbursement of County costs for extension negotiations/lease documentation.
COUNTY INCOME CONTINUITY Ensure County revenue flow during redevelopment	<ul style="list-style-type: none"> • Minimum rent payable during each lease year during construction in an amount equal to 75% of average of preceding 3 years' total annual rent at time of exercise of Option.
RIGHT TO RECAPTURE	<ul style="list-style-type: none"> • County has right to recapture the leasehold if sale is proposed.
LEASE ASSIGNMENT-DISCLOSURE ISSUES	<ul style="list-style-type: none"> • Lessee has agreed to County disclosure requirements as to identity, operating experience and character/reputation of proposed assignees, as well as to disclosure of financial information in conformity with County policies.

APPRAISAL	<ul style="list-style-type: none"> The Department has obtained an independent appraisal confirming the return to the County from the lease extension is equivalent to, or greater than, fair market value.
REGULATORY APPROVALS	<ul style="list-style-type: none"> Lessee must obtain all regulatory approvals within 18 months of grant of Option by Board of Supervisors. This period may be extended as set forth above in "Extension Term."

Additional Matters

OTHER TERMS	<ol style="list-style-type: none"> 7 years prior to expiration of lease, Lessee to structure funding for removal of improvements (at County's election). Rental renegotiation and insurance disputes subject to rent-a-judge procedure pursuant to "baseball" type arbitration. Maintenance standards for improvements to conform to Marina del Rey standards as revised from time to time. Lease administrative items include: a) late fee of 6% plus interest at prime plus 3% for any late payments, b) security deposit equal to 3 months' minimum rent, c) insurance levels reset/renegotiated upon execution of Restated Lease and every 5 years thereafter, d) County maintains approval rights over all construction plans and specifications, e) enhanced audit and record-keeping standards. Liquidated damages of \$100 per day (adjusted for inflation) for each cited maintenance deficiency that remains uncured after a specified cure period, to be assessed against the security deposit.
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If the Lessee does not or is unable to exercise the Option on or before its stated expiration date (including any extensions), it is required to execute an amendment to the current lease which will add the following requirements to its currently-existing lease: a) new market rate percentage rents; b) County participation in sale and refinance; c) the obligation to reimburse the County's actual costs incurred for outside consultants, County Counsel and the Department's lead negotiator in the review, negotiation, preparation and documentation of the Restated Lease; d) the County's right to recapture the leasehold in the event of it being offered for sale; e) a sinking fund for the removal of lease improvements upon lease termination; f) disclosure provisions in the event of lease assignment; g) assessment of a late fee and interest for late payments due the County; h) security deposit equal to 3 months' minimum rent; i) insurance levels newly set and

The Honorable Board of Supervisors
June 26, 2003
Page 7

renegotiated every 5 years; j) provision for enhanced audit and record-keeping standards; k) leasehold maintenance in conformity with Marina standards as revised from time-to-time; l) minimum rents to be adjusted every third year to 75% of preceding 3 years' average total rent and renegotiated with percentage rent and insurance provisions each tenth lease year; and m) modernized arbitration provisions.

FISCAL IMPACT/FINANCING

The Restated Lease reflects the County's current market rate percentage rents for all relevant categories. It will produce two categories of fiscal benefit to the County: 1) an extension fee; and 2) rent increases due to construction of 179 new apartment units. Each component is discussed in detail below.

Extension Fee

Lessee will pay an extension fee of \$900,000 due on exercise of the Option, payable as a non-refundable option fee of \$100,000 concurrent with the execution of the Option with the remaining balance of \$800,000 payable upon exercise of the Option in 10 equal installments of \$80,000 in principal, plus interest on the unpaid balance at the prime rate.

Rent Increase Due to New Construction

The total rent derived from Parcel 140V during calendar year 2002 was approximately \$107,529. After construction, lease-up and stabilization of the new residential units, our economic consultant has estimated that the total County rent will rise to approximately \$533,814 annually, an annual increase of approximately \$426,285.

Costs of consultants and primary County staff involved in the negotiation and development of the Option and Restated Lease are being reimbursed by the Lessee on an ongoing basis.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The term of the lease for Parcel 140V commenced October 1, 1962, and will expire on September 30, 2022. In exchange for a lease extension to the date of September 30, 2061, which will be available upon satisfaction of the Option's enumerated conditions and your Board's approval of the Restated Lease, Lessee has agreed to raze the existing

The Honorable Board of Supervisors
June 26, 2003
Page 8

improvements and to construct a new 4-story 179-unit apartment building. The Restated Lease will also require renovations in 2016, 2031 and 2046 to physically reposition the project to then current market requirements.

The Lessee has made application to the Department of Regional Planning for its discretionary land use entitlements under the applicable standards of the Local Coastal Program (LCP), including those related to building height and traffic requirements. That application is still under review. Approval of the Option is without prejudice to the County's full exercise of its regulatory authority in the consideration of the land use entitlements required for the possible exercise of the Option.

Amendment and extension of the existing lease is authorized by Government Code Sections 25907 and 25536. The extended lease term is in conformance with the maximum 99-year period authorized by California law.

As contemplated by your Board's Marina del Rey Affordable Housing Policy, the Lessee has agreed to provide no less than 10% of the number of new apartment units as low-income housing for the full remaining term of the lease if extended following successful fulfillment of the Option conditions and your Board's approval of the Restated Lease or, alternatively, to provide such affordable units in conformance with the terms and conditions of any permit granted by the Regional Planning Commission upon lessee's application for a density bonus for the project.

At its meeting of June 11, 2003, the Small Craft Harbor Commission endorsed the Director's recommendation to approve the Option and the Restated Lease in the form attached. County Counsel has approved the documents as to form.

ENVIRONMENTAL DOCUMENTATION

The Option is categorically exempt under the California Environmental Quality Act pursuant to class 1 (r) of the County's Environmental Document Reporting Procedures and Guidelines. Approval of the Option does not authorize construction or re-construction of any improvements on the parcel. The discretionary land use entitlements and the corresponding environmental documentation necessary to implement the proposed redevelopment/replacement contemplated by the Option and the Restated Lease are under review by the Department of Regional Planning.

The Honorable Board of Supervisors
June 26, 2003
Page 9

CONTRACTING PROCESS

The Lessee's proposal for a lease extension was received in response to the release of a Board-authorized solicitation document seeking proposals for new development and redevelopment on parcels on the Westside of Marina del Rey. Subsequent negotiations with the Lessee in development of the proposed Option, as well as the Restated Lease, were based upon an evaluation committee's review of the proposal and ultimate recommendation to proceed into negotiations, which recommendation was accepted by the Director and approved by the Board.

The new Restated Lease will be available to the Lessee upon the exercise of the Option. Upon Lessee's demonstration that it has satisfied the conditions for exercise contained in the Option and has received all planning, zoning, environmental and other entitlement approvals required to be obtained from governmental authorities for the construction of the development project, we will return to your Board for final confirmation that the conditions and approvals for exercise contained in the Option have been satisfied and request authorization for execution of the Restated Lease.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no impact on other current services or projects.

CONCLUSION

Authorize the Executive Officer/Clerk of the Board to send three copies of the executed Option to the Department of Beaches and Harbors.

Respectfully submitted,



Stan Wisniewski, Director

SW:RM:AK:GB
Attachments (2)

c: Chief Administrative Officer

The Honorable Board of Supervisors
June 26, 2003
Page 10

Executive Officer, Board of Supervisors
County Counsel
Auditor-Controller